

REMARKS

INTRODUCTION

Claim 5 has been canceled. Claims 1, 3, 6, 24, and 29 have been amended. New claim 32 has been added. Claims 1 through 4 and 6 through 32 remain in the application.

Claims 17 through 23 have been allowed.

Claims 3, 6, and 11 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Accordingly, claims 3 and 6 have been amended and rewritten in independent form to include the limitations of the base claim and any necessary intervening claims. It is respectfully submitted that claims 3 and 6 are in a condition for allowance, which allowance is solicited.

REJECTION OF CLAIMS 1, 3 AND 29 UNDER 35 U.S.C. § 112

Claims 1, 3, and 29 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant respectfully traverses this rejection.

With respect to the rejection to claim 1 on the grounds that certain terms lacked sufficient antecedent basis, claim 1 has been amended at line 12 to specifically mention that each guide member is formed “with two wall sections”. As required in original claim 1, each of these wall sections must have a longitudinally extending rib and therefore there is now a clear antecedent basis for the term “the two ribs” in line 14. With respect to the rejection to the term “the combined thickness” in line 20, this rejection has been overcome by introducing this dimension with the indefinite article “a”. With respect to the rejection to the use of the term “the

width” in line 21, a proper antecedent for this dimension has now been provided by the addition of the words “which has a width” in line 15 after the feature “elongate slot”.

With respect to the rejection to original claim 3, the feature recited in the last two lines of original claim 3 (including the term “the width”) has now been made the subject matter of new dependent claim 32. Again, a proper antecedent basis for the term “the width” now is provided in rewritten independent claim 3 which also states that the elongate slot “has a width”.

With respect to the rejection to claim 29, the feature of the combination strip has now been introduced in the proper manner by the use of the indefinite article “a”. Also, the word “said” has been inserted before the term “OPD” in line 4 since this term has been mentioned previously in the claim. Therefore, it is respectfully submitted that claims 1, 3, and 29 are allowable over the rejection under 35 U.S.C. § 112, second paragraph.

REJECTION OF CLAIMS 1, 4, 5, 10, 12 THROUGH 14, AND 16 UNDER 35 U.S.C. § 102

Claims 1, 4, 5, 10, 12 through 14, and 16 were rejected under 35 U.S.C. § 102(b) as being anticipated by Lichy (U.S. Patent No. 5,482,104). Applicant respectfully traverses this rejection.

With respect to the rejection of a number of claims in the application on the grounds of anticipation in light of the teachings of U.S. Patent No. 5,482,104 to Lichy, it is respectfully submitted that independent claim 1 as amended and claim 12 do clearly and patentably distinguish over the teachings of this reference. The Lichy ‘104 patent discloses a door guide system for a flexible door curtain 196. Although several different forms of door guides and windlocks are disclosed in the patent, possibly the more relevant embodiment is that shown in Figures 17 and 18 which has a guide structure 180 that is attached to a bracket by means of bolts or screws 194. A guide channel 186 has spaced-apart, parallel vertical flanges or

wall sections 188, 190 which are integrally connected by a bight portion 192. The guide can be made by extruded metal or plastic. The side edge of the curtain is provided with two strips 198, 200 located on opposite sides of the curtain with one strip 200 located immediately adjacent the edge of the curtain and the other strip 198 spaced laterally inwardly on the curtain edge section. In this embodiment, one of the flanges 190 is longer in the horizontal direction than the other flange and each flange terminates in a partially cylindrical end edge or bead for snap engagement with a windbar 210 which is generally channel-shaped. The windbars can be pulled off of the flanges when the curtain is subjected to excessive force.

It is important to note that the strips 198, 200 are elongate strips that extend substantially the height of the curtain edge. This is evidenced by Figure 18 and the description found in column 8, beginning at line 19. It is noted therein that the staggered relationship of the windlocks 198, 200 is important as it provides an interlocking effect on the end portion of the convolutions when it is wound onto the door drum, this relationship helping to maintain the end edges of the wound curtain in radial alignment. The interlocking effect provides for proper orientation of the curtain as it is wound onto the drum or unwound.

A rejection grounded on anticipation under 35 U.S.C. § 102 is proper only where the subject matter claimed is identically disclosed or described in a reference. In other words, anticipation requires the presence of a single prior art reference which discloses each and every element of the claimed invention arranged as in the claim. In re Arkley, 455 F.2d 586, 172 U.S.P.Q. 524 (C.C.P.A. 1972); Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 218 U.S.P.Q. 781 (Fed. Cir. 1983); Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 U.S.P.Q. 481 (Fed. Cir. 1984).

From the above review, it will be seen that claim 1 distinguishes over the teachings of Lichy '104 by reciting the following features:

(1) Extruded flexible guide members (In the reference, it appears that the guide members are constructed as rigid members since the edge section of the curtain is only able to come out of each guide member by the windbars 210 detaching themselves from the flanges);

(2) Each rib forms a longitudinally extending concave surface which is concave as seen in transverse cross-section of the respective guide member with the two concave surfaces of the two ribs forming an elongate split socket arrangement (In the reference, the inwardly offset end portions 206 have only convex surfaces formed by their edge portions or beads 208 and, although the two windbars 210 have concave inner surfaces to engage the aforementioned beads, these concave surfaces do not form an elongate split socket arrangement within the meaning of claim 1 and the present application;

(3) Spaced-apart pairs of curtain lock members mounted on and distributed along each side edge section of the curtain (In the reference, there is only a single pair of elongate curtain lock members 198, 200 extending along each side edge section);

(4) Lock members of each pair must be positioned opposite one another on front and rear surfaces of the curtain (In the reference, the elongate locking strips 198, 200 are staggered in the lateral direction relative to one another and this is an important requirement for these elongate locking strips as indicated);

(5) The aforementioned split socket arrangement formed by the ribs on each guide member must engage "pairs of said lock members located in their respective guide member during use" (Even if the windbars 210 could be considered to form a split socket arrangement, which is not admitted but specifically denied, these windbars only engage one pair of lock members and not a number of pairs of lock members).

In view of these numerous differences and the significance of these differences, it is respectfully submitted that claim 1 is not anticipated by the Lichy '104 patent and is now in

condition for allowance along with the claims dependent thereon. Therefore, it is respectfully submitted that claim 1 and the claims dependent therefrom are allowable over the rejection under 35 U.S.C. § 102(b).

With respect to the rejection of independent claim 12 directed to an elongate guide, it is respectfully submitted that claim 12 distinguishes over the teachings of Lichy '104 by requiring that each of the longitudinally extending ribs "has an elongate interior surface which is concave as seen in said transverse cross-section" and by the requirement that these concave surfaces "form an elongate, split curved socket for engaging the curtain lock mechanism when the lock mechanism is located in the guide during use".

As indicated above, the only concave surfaces in the door guide structure shown in Figure 17, for example, are the inner concave surfaces of the two windbars 210. In fact, the only feature in the Lichy '104 structure which could be considered similar to the integral longitudinal ribs required by claim 12 are the flange end portions 206 but, even if these are considered ribs, they only have convex cylindrical surfaces formed by their end edges 208. Clearly, the two cylindrical end edges 208 do not form a socket for engaging the curtain lock mechanism of Lichy '104, namely the elongate edge strips 198, 200. Moreover, the concave surfaces on Applicant's ribs provides an important advantage and is illustrated in Figures 10, 14 and 18 of the drawings. The feature of the concave surfaces 146 is described in paragraph 51 of the present description. As explained in paragraph 60 the curtain locks 100 tend to be drawn into the split socket receptacle of the guide members and, because of the exterior curvature of the lock members and the concave interior surfaces 94 (see Figure 4), the lock members can pivot in a "balljoint" fashion to accommodate dynamic fluctuations and the changes in the position of the curtain.

For the aforementioned reasons, it is respectfully submitted that claim 12 is in condition for allowance along with dependent claims 13, 14, and 16. Therefore, it is respectfully submitted that claim 12 and the claims dependent therefrom are allowable over the rejection under 35 U.S.C. § 102(b).

REJECTION OF CLAIMS 2, 7 THROUGH 9, AND 15 UNDER 35 U.S.C. § 103

Claims 2, 7 through 9, and 15 were rejected under 35 U.S.C. § 103 as being unpatentable over Lichy '104. Claims 8 and 24 through 31 were rejected under 35 U.S.C. § 103 as being unpatentable over Lichy '104 and further in view of Indoe (U.S. Patent No. 5,747,738). Applicant respectfully traverses both rejections.

As to patentability, 35 U.S.C. § 103 provides that a patent may not be obtained:

If the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Id.

The United States Supreme Court interpreted the standard for 35 U.S.C. § 103 in Graham v. John Deere, 383 U.S. 1, 148 U.S.P.Q. 459 (1966). In Graham, the Court stated that under 35 U.S.C. § 103:

The scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background, the obviousness or non-obviousness of the subject matter is determined. 148 U.S.P.Q. at 467.

Using the standard set forth in Graham, the scope and content of the prior art relied upon by the Examiner will be determined.

It is respectfully submitted that the subject matter of dependent claim 2 would not be obvious in light of the teachings of Lichy '104 and ordinary skill in the art. Indeed it is submitted that in order to function as intended, the Lichy '104 structure requires that the elongate locking strips 198, 200 have edges which are substantially perpendicular relative to the main outer surface of these members, this arrangement being necessary for these locking strips to hold the curtain edge section in the guide member. The windbars 210 must also have flat inner surfaces which extend perpendicular to the main surfaces of flanges 188, 190 in order to be able to retain the strips 198, 200 in the guide member. This form of flat surface to flat surface engagement is possible in Lichy '104 because of the detachable nature of the windbars 210, a feature not employed in Applicant's guide members. The Examiner has failed to establish a case of prima facie obviousness. Therefore, it is respectfully submitted that claims 2 and 7 are allowable over the rejection under 35 U.S.C. § 103.

With respect to the rejection of dependent claim 9, it is respectfully submitted that this claim is also allowable for the same reasons as stated for claim 2 (on which claim 9 depends) and as stated for claim 1. In addition, the Lichy '104 reference fails to teach or suggest the use of pairs of lock members, each of which has opposite end sections which are tapered and each of which have counter-bored screw holes for mounting the lock member. As indicated, the elongate windlock strips 198, 200 extend the height of the edge section and it appears that they are bonded by glue or adhesive to the edge section of the curtain. In the case of the embodiment shown in Figures 4 and 4a, it is indicated that the locking strip 46 is "bonded to one surface of the side edge thereof" (see column 4 at lines 12 to 13). The Examiner has failed to establish a case of prima facie obviousness. Therefore, it is respectfully submitted that claim 9 is allowable over the rejection under 35 U.S.C. § 103.

With respect to the rejection of dependent claim 15, it is submitted that this claim is allowable over the Lichy patent for the same reasons as stated for claim 12 on which it depends indirectly. The Examiner has failed to establish a case of prima facie obviousness. Therefore, it is respectfully submitted that claim 15 is allowable over the rejection under 35 U.S.C. § 103.

REJECTION OF CLAIMS 8 AND 24 THROUGH 31 UNDER 35 U.S.C. § 103

Turning now to the rejection of claims 8 and 24 through 31 on grounds of obviousness in view of the teachings of the Lichy '104 patent and US Patent No. 5,747,738 to Indoe, reconsideration of this objection is respectfully requested in view of the following comments and the amendments which have been made to claim 1. Incidentally, claim 24 is being amended at this time simply to correct a clerical error in that the term "polyurethane" which appeared in line 7 should have read -- polyetherurethane --. Support for this amendment can be found, for example, in claim 8 where the correct word "polyetherurethane" is used.

It is respectfully submitted that the Indoe '738 patent is not relevant to either the door assembly of claim 8 or the door curtain of claim 24. The Indoe '738 patent is directed to a method of applying non self-adhesive wall covering to smooth objects such as cover plates and this patent is not related to the flexible door art in any way. The structure taught in this reference is a double-sided contact adhesive sheet 1 having two adhesive layers at 2 and 4 on each of the sides of the sheet with these adhesive layers being covered by release sheets 7 and 9, each of which has at least one pre-perforated section. The release sheets 7 and 9 can be made of a variety of materials including polyvinylchloride and polyethylene but these release sheets serve an entirely different purpose than the strips of low friction, wear resistant material required in the door assembly of claim 8. Indeed the sole purpose of the release sheets in the cited reference is

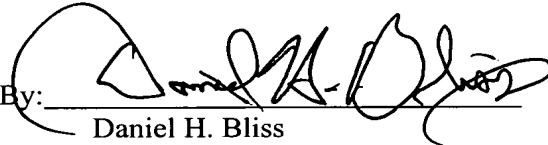
to cover the adhesive layer so that it will not come into contact with an object or adjacent surface until the adhesive sheet is ready to be used and attached to an object. The selection of the particular material for the release sheet is solely dependent on its ability to be removed readily from the adhesive layer when this is required. One skilled in the art of the present invention would have no reason to believe that the release sheets used in this particular patent would be suitable for use on a door curtain in order to provide a wear resistant surface where the curtain engages the door guide.

In addition, the cited reference in no way teaches the particular wear resistant material recited in claim 8. Accordingly, allowance of claim 8 is believed to be clearly in order. Similar comments apply equally to independent claim 24 and the claims dependent thereon. As admitted by the Examiner, the Lichy '104 reference fails to disclose the use of strips of low friction, wear resistant material affixed to at least one surface of the opposite edges of the curtain and for the reasons already indicated in connection with claim 8, the Indoe '738 reference fails to overcome this deficiency in the teachings of Lichy '104. There is nothing in either cited reference which would lead one skilled in the construction of flexible doors to combine these two references to obtain the wear-resistant advantages that are obtained by the door curtain structure recited in claim 24. In this regard, it should be noted that the wear-resistant strips required by claim 24 are not provided to guard the door against harsh weather. If this were the case, then it would make sense to apply the claimed wear-resistant material to the entire surface of the door curtain which is not done by the Applicant and is in no way suggested by the present application. The purpose of the wear-resistant strips on the side edges of the curtain is to prevent excessive wear on the curtain as it moves up and down in the two guide members. The Examiner has failed to establish a case of prima facie obviousness. Therefore, it is respectfully submitted that claim 8

and 24 and the claims dependent therefrom are allowable over the rejection under 35 U.S.C. § 103.

Based on the above, it is respectfully submitted that the claims are in a condition for allowance, which allowance is solicited.

Respectfully submitted,

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